



Federal Communications Commission  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

April 19, 2007

Indy Lico, Inc. and  
WFMS Lico, Inc.  
c/o Mark N. Lipp, Esq.  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington, D.C. 20006

Re: MB Docket No. 05-67 (Fishers,  
Lawrence, Indianapolis, and Clinton,  
Indiana)

Dear Counsel:

This is in reference to the "Request for Expedited Processing of Counterproposal" ("the ICRC Request") filed by Indiana Community Radio Corporation ("ICRC") in MB Docket No. 05-67 and received September 26, 2006, by the Commission. MB Docket No. 05-67 is an FM allotment rulemaking proceeding in which Indy Lico, Inc., licensee of FM Station WWFT and WFMS Lico, Inc., licensee of FM Station WFMS, propose (a) the upgrade of Channel 230A, Station WWFT, Fishers, Indiana, to Channel 230B1 and the reallocation of Channel 230B1 from Fishers to Lawrence, Indiana; (b) the reallocation of Channel 238B, Station WFMS, from Indianapolis to Fishers, Indiana; and (c) the substitution of Channel 229A for Channel 230A at FM Station WPCR, Clinton, Indiana, which is licensed to Word Power, Inc. The ICRC Request contains no service list and only one known copy of the pleading was received by the Commission. Accordingly, this pleading amounts to an impermissible *ex parte* presentation. We note that this pleading was placed on our Electronic Comment Filing System (ECFS), apparently because only one copy of the pleading was mailed to the Commission. Nevertheless, we are hereby serving this pleading on all parties to MB Docket No. 05-67, thus making the pleading a part of MB Docket No. 05-67. ICRC's chief allegation is that FM Station WWFT, Fishers, Indiana, has operated with Class B1 facilities on Channel 230, as proposed in this docket, rather than in accordance with its authorized Channel 230A facilities.

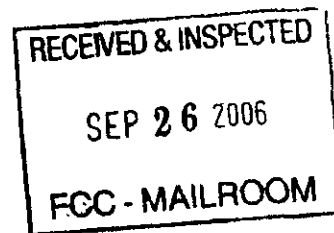
Imaging Center  
CY-C203

APR 20 2007

Indiana Community Radio Corporation  
15 Wood Street  
Greenfield, IN 46140

September 14, 2006

Federal Communications Commission  
445 12th St SW  
Washington DC 20554  
Attention : Office of The Secretary



Docket Number

RM 10153 Docket 05-67

**Request For Expedited Processing of Counterproposal**

Dear Sir,

This Request For Expedited Processing is made due to interference from WISG Fishers/Noblesville/Lawrence and apparent high power operation which is outlined herein and affects not only W230AR New Castle but WPRF Clinton, WQKC Seymour, and others.

**Background**

WISG has apparently upgraded to the facilities it has "requested" and is causing interference to the protected 60dbu contours of WPRF Clinton, Indiana as WPRF has had several reports of interference within their primary service area. We have personally noted interference to WPRF in areas where we could clearly hear WPRF previously.

WISG is not providing access to materials in it's Public Inspection File. No access has been granted to materials since December of 2005.

**Expectancy of Licensee**

Commission Staff takes a position of "Good Faith" in allowing a Licensee to change City Of License. Commission Staff is trusting representatives of radio stations to tell the truth. There is no ascertainment concerning the Licensee's current operation or future operations.

Commission Staff has not considered that the rash of City Of License changes are irrelevant to service to a particular City. The WISG studios were already in Indianapolis when it moved from Noblesville to Fishers. The WJJK studios were already in Indianapolis when it changed City Of License to Noblesville. The current Rule Making is irrelevant to service to Noblesville, Fishers, Lawrence or any other non Indianapolis locale.

Lawyers know the Commission Staff normally accepts smaller cities with non urbanized areas. The service to Noblesville, Fishers, or Lawrence will not be affected by Commission Staff placing their City in the Table Of Allotments.

The process for moving WISG has taken a station (WISG) which really did serve Noblesville Indiana at one time and has allowed a checker board movement among various cities it really was going to serve and has allowed it to serve none. The request of Public Inspection File materials in 2005 has not been answered.

Cumulus is removing Seymour Indiana's only local FM service (WQKC) so it can upgrade the urbanized service area of Indianapolis for WISG. WQKC has been downgraded and will be moved to another urbanized area, Sellersburg (Louisville, KY).

Under Order made  
LW/EGDE

Does anyone at the Commission see the representation that Noblesville would "retain" service was never made good? Fishers will receive service now from WFMS which serves Indianapolis. WISG will now "serve" Lawrence.

The inability of the Public to view the Public Inspection File of WISG is noted in providing a clear picture of the "Good Faith" the Commission accepts from Licensees.. Beginning in December of 2005 and since WISG has refused to provide copies of any information they have filed concerning the Rule Making Proceeding to the Public. WISG has failed to retain emails or letters from the Public. WISG has failed to retain ownership or station transfer documents. There has been no adequate Public Notice to the residents of the WISG service area (either current or proposed). This should be considered within the docketed Rule Making proceeding.

WISG has "requested" an upgrade that has apparently already taken place. It is more important that the WISG signal be it's maximum despite other Commission Licensees WPFR and W230AR.

#### Privitization

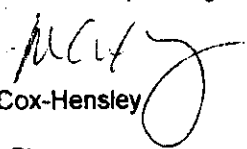
When Mark Lipp was at the Commission he was the "go to" person for City Of License changes. He has privatized this area of Commission action. Vincent and Elkins gains business based on Lipp's former connection with this area of Commission Rule action.

Staff is allowing changes based on representation that a small City near Indianapolis will receive service. Counsel cannot know that a client will fail to let the Public have access to a Public Inspection File or actually provide service to a City. Counsel knows what is acceptable and pleasing but cannot verify a client will follow through. Staff is trusting radio stations to tell them the truth.

#### Conclusion

Despite the eloquent filing by Cumulus Media related to WISG and the need of Fishers or Lawrence to have a radio station use it's name once an hour, this is an irrelevant factor to this proceeding. A large media group is going to upgrade it's Class A station to a Class B station to make more money. Please consider the Good Faith aspect of this change and the current operation by WISG in this matter.

We are requesting the ability to change to a noncommercial channel to escape the interference from WISG as it is operating at variance from parameters.

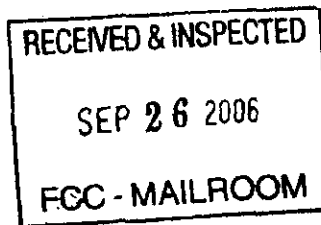


Jennifer Cox-Hensley  
ICRC  
15 Wood St  
Greenfield, IN 46140  
317 467-1062

Indiana Community Radio Corporation  
15 Wood Street  
Greenfield, IN 46140

September 07, 2006

Federal Communications Commission  
445 12th St SW  
Washington DC 20554



**RE : Interference Complaint filed by WISG Re W230AR New Castle, IN**

**Request for expedited processing due to interference from WISG at unlicensed parameters which affects W230AR New Castle and WPFR Clinton**

**Request for Waiver to move to non adjacent channel to alleviate interference from WISG**

Dear Mr Bradshaw,

This letter is to address the correspondence from Commision Staff on behalf of Indiana Community Radio Corporation (ICRC). There has been no interference complaint filed by any person with the Commission. There is no complaint independent of WISG involving W230AR. We wish to clear this matter.

We note that licensed stations (W230AR and WPFR) are experiencing interference from WISG after signal modifications that affect the allocation system created by the Commission and we are asking for expedited processing of efforts to relieve interference to our translator as a result of changes to the WISG facilities. This includes our wish to move to a new frequency.

#### **Background**

##### **Aaron Pierson**

As it relates to Aaron Pierson we have received the following email from Mr. Pierson September, 2006 :

**Regarding the operation of W230AR in New Castle I did not file a complaint. Any emails to WISG were not intended as a complaint. I do not wish to pursue any complaint against W230AR.**

**Sincerely,**

**Aaron Pierson**

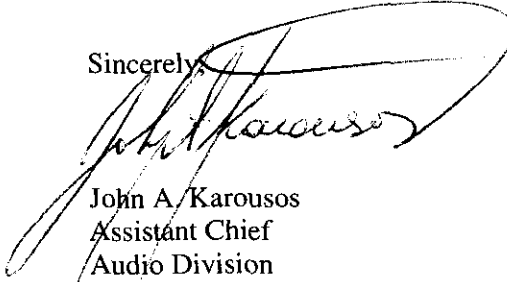
(emphasis added)

Mr Pierson indicated in December of 2005 that he had no complaint and this has not changed. He did not request WISG to file a complaint on his behalf as WISG has done so. This matter is resolved as there was no complaint and is no complaint as noted by Pierson. The email originated from the same email address in the WISG Petition To Deny.

**Commission Staff did not copy it's letter regarding W230AR to Pierson but instead to the actual complainant. The complainant was noted as Mark Lipp, counsel for Cumulus Media.**

Parties to this rulemaking proceeding (MB Docket No. 05-67) are afforded fifteen (15) days from the date of this letter to comment on the ICRC Request. We direct Indy Lico, Inc., licensee of FM Station WWFT, to identify all periods of time during which it operated with Class B1 facilities on Channel 230.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Karousos", is written over the word "Sincerely,".

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau

Enclosure

- cc: Word Power, Inc.  
c/o Frank R. Jazzo, Esq.  
Fletcher Heald & Hildreth, PLC  
1300 North 17<sup>th</sup> Street  
11<sup>th</sup> Floor  
Arlington, Virginia 22209-3801
- cc: Indiana Community Radio Corporation  
15 Wood Street  
Greenfield, Indiana 46140  
ATTN: Jennifer Cox-Hensley  
(FM Translator Station W230AR)

### **WISG Public File Deficiency**

After WISG filed it's Petition and complaint our volunteer staff became pro-active in an effort to find and resolve any interference if it existed to cause no interference.

December 27, 2005 a volunteer attempted to view the WISG Public File following the Petition To Deny filed by WISG. The attempt to view the WISG Public File was fruitless. There were no letters from the Public or emails that referenced any listener comments within the WISG Public File that were current. Since December of 2005 WISG has yet to provide any letters or emails from a member of the Public to the requestor. No individual has contacted the Commission independent of WISG with a complaint concerning operation of W230AR independent of WISG. The complaint was from counsel.

When trying to see letters in the WISG Public Inspection File WISG staff was specifically asked about complaint letters. WISG indicated that there were "no complaint letters" and that if any complaint letters existed they would be in the Public Inspection File or would be provided. Since this time WISG has yet to provide any complaint letters. When asked specifically, it was noted that Mark Lipp represented Cumulus Media in "some legal matter". As the transfer to Cumulus had not been approved WISG indicated any paperwork concerning Cumulus would not be in the WISG Public Inspection File but would be with Cumulus Media. There was no Public availability to view letters from the Public or FCC filings related to the transfer to Cumulus. WISG has yet to provide any letters or FCC filings or indicate when they will be available to the Public.

WISG could not provide a copy of the license transfer agreement of the pending transaction with Cumulus Media. WISG would not provide a copy of The Public and Broadcasting. A note in the Public File concerning the person viewing the Public Inspection File was found. It was noted the company "did not communicate" with the person who wished to inspect the Public File of WISG and as such no copies of letters from the public have been provided at that time or since. No access was provided. The person was a volunteer for ICRC and lives within the contours of WISG.

The Petition To Deny by Cumulus on behalf of the soon to be purchased WISG included an email from a person whose name was noted as Aaron Pierson. No address or location of interference was noted. Our staff located an Aaron Pierson who lives in New Castle Indiana and contacted him. Pierson was and is a listener of WJCF. He noted he listened to WISG and WJCF on his travels to work in his car. He did not supply the location. He indicated he did not file a complaint concerning interference. He noted he did not contact the Commission and that he is a long time listener of W230AR primary station WJCF. He was not aware of any complaint filed by himself or any other person.

Pierson did not indicate he had a complaint or wished to pursue a complaint. He was given a telephone number if he had further questions or concerns. Since December of 2005 Mr. Pierson has not contacted WJCF to indicate he is unhappy with reception of WISG. Following the letter from your office we have received the inclusive email from Mr. Pierson which indicates his position has not changed : He has no complaint with W230AR and has not filed a complaint.

We cannot determine why WISG would not have copies of letters from the Public or emails within their Public Inspection File or why they would withhold these letters if they wished to pursue resolution of interference. Staff of WISG was unaware of any complaints received concerning W230AR well after the Petition against W230AR was filed. WISG Engineering Staff noted New Castle was well away from any area where they anticipated reception.

### **WISG Operation as a Class B Station**

In an effort to document the signal to WISG we have provided contour maps of WISG, WPFR, and W230AR noting stations 60dbu and 40dbu contours.

When WISG began broadcasting their signal did not leave Hancock County to the East. By

design WISG constructed their "omnidirectional" signal utilizing Commission practice which allows a station to utilize the mounting structure to significantly modify the 60dbu contours and operate as a directional FM station. Their antenna is mounted on a tuned resonant tower section that directionalizes their signal towards Indianapolis which is their primary service area. WISG purchased a pattern study which would reportedly indicate a 9 to 12db gain towards the West (Indianapolis and WPFR) and a similar loss towards the East (W230AR). For the first several months, and, until after W230AR began operation mobile reception of WISG was not possible in Henry County. Reception in homes was difficult at best. Reception within Hancock County was difficult as the signal was directional to the West.

WISG utilizing the additional directional antenna gain would allow the 3kw WISG signal to generate a 24 KW signal towards WPFR. (3db would provide 6kw; 6db would provide 12 kw; 9db would provide 24kw.) Commission Rules allow this practice and it is common in the industry. By explaining this fact we also note the signal using the additional gain to the East produces an equal loss in the direction of W230AR. 3kw would become 375 Watts towards W230AR (-3db would be 1500 W; -6db would be 750 W; -9db would be 375 W.)

Using the factual data of the practice utilized to modify an omnidirectional signal by WISG it would be apparent they would have little signal towards the East using their constructed antenna system.

The construction of W230AR would have no impact on WISG if WISG operated from it's main site. Because the exact design or pattern of the WISG directional pattern is not available we provide 2 maps which show the 60 and 40dbu contours of WISG. One is the 375 W signal towards W230AR New Castle and the other is the 24kw pattern towards WPFR Clinton, IN. Another Engineering Showing is the path profile to W230AR from the WISG Licensed site over 50km distant. (WISG Path Licensed to W230AR) This theoretical map does not show the result of a 12db directional pattern, only a more conservative 9db directional pattern.

#### **Transmitter Location Change of WISG**

In June of 2006 WISG's signal began to broadcast in a manner which completely erased the W230AR signal as WISG had made significant changes not reflected in their construction permit or license.

In speaking with WPFR Clinton Indiana, also on Channel 230, they noted interference to their protected 60dbu contour well inside their 60dbu area. They note several complaints. Our mobile reception of WISG formerly ended at the Marion/Hendricks County line to the West but currently continues until entering Terre Haute on I-70, within the WPFR 60dbu contour. It is noted the respondent lives within the contours of WISG. As a listener of WPFR within it's 60dbu protected contour we note we can no longer hear the WPFR at locations noted within the 60dbu contour.

The signal of WISG was improved at the time WPFR began receiving interference by unauthorized upgrade that did not allow reception of W230AR until nearing the tower site for W230AR in June of 2006. When the current engineer was contacted he indicated the station had a BE transmitter capable of 8kw. WISG is licensed to use 2.5 kw to achieve rated power at their main site.

There is a perception among broadcasters that stations can utilize their auxiliary site any time they wish for as long as they wish.

At the "auxiliary" WISG site WISG is licensed at 500 watts at 124 meters. This location (Hawthorne Lane in Indianapolis) is the auxiliary site for WFMS and WJJK which are co-owned with WISG. Cumulus maintains high power transmitters and a sophisticated antenna switch and remote control which would allow either transmitter to be switched to the WFMS main antenna which is near enough in frequency to allow operation at 93.9 mhz. WFMS also maintains a secondary transmission system at it's primary site. The WFMS antenna is at 155 meters. WJJK is at 146 meters. Both these stations are 13 or 14 kw at this auxiliary site. It is not known if these

locations have utilized pattern studies to modify the signal pattern. If only a 3db increase is utilized this would allow a 14 kw facility to operate at 28 kw. 6 db would provide 56 kw.

Using the WISG auxiliary site and the contours of WFMS at the same auxiliary location the signal is very close to the actual measured contours of WISG with 6db of antenna boost used for mounting the antenna on a tower leg. Another map utilizing the WFMS auxiliary parameters in place of the WISG auxiliary parameters shows the interference to W230AR and shows the undesired affect on WPFR. WPFR is experiencing significant interference to it's protected 60dbu contours by WISG and has received many complaints according to staff. We agree WISG is now being received in locations where WPFR was formerly available including locations within the WPFR 60dbu protected contours. As listeners we can no longer receive WPFR in areas where it's 60dbu contour should be heard and has historically been listened to.

Based on the improved WISG signal which appears to be that of a class B station, any reports of interference to WISG's licensed signal cannot be verified. Our staff has difficulty hearing W230AR at all South of the W230AR site. Specifically, one mile South on South Memorial Drive WISG is listenable and W230AR is not. At other locations West of South Memorial Drive, also known as State Road 3 WISG is heard and not W230AR.

Based on these changes in the WISG signal WISG has improved it's signal to a point that precludes listening of W230AR at locations within the W230AR 60dbu contour well outside of the predicted WISG 40dbu contour. RDS information for WISG is superimposed over W230AR at locations in the 100dbu of the W230AR signal. The same RDS information is superimposed over WPFR Clinton within it's 60dbu contour.

Conversations with WPFR about the loss of signal have questioned the technical plant of WPFR to verify it has not had a technical malfunction. WPFR is operating properly. We also note interference to WJJK Noblesville and WQKC Seymour from the high power operation.

***It is clear WISG has upgraded it's signal without Commission authorization. WISG is creating new interference to WPFR, W230AR, WJJK Noblesville, and WQKC Seymour, Indiana.***

WISG has kept the Public from viewing letters and emails from the Public because these letters may substantively prove interference to protected stations WPFR, WQKC, and WJJK. By operating at high power then alternatively reducing to licensed parameters WISG can create the impression that it has a signal to protect in areas it should not reach.

### **Other contacts concerning WISG**

Staff can recall 2 telephone calls concerning WISG. One person called and indicated residence in Richmond Indiana and provided no actual interference location. The contact number he left was invalid. This person has not contacted staff again. W230AR cannot be heard in Richmond, Indiana.

A woman called and asked about the use of 93.9 but staff does not have a record of the location. The woman is a regular listener of WJCF , W230AR Primary station. She did not complain or indicate she wished to file a complaint.

As far as staff can determine there have been no complaint letters mailed to WJCF or W230AR. WISG has refused to provide access to their Public Inspection File to allow ICRC to view emails or letters from the Public. Clearly, no "complaints" have been filed or offered for review. As the one noted complaint is not a complaint and WISG has no letters from the Public in their Public Inspection File this matter is a great waste of Commission time and misrepresentation.

### **Past Staff Decisions**

Past Staff Decisions are noted as placing the burden of proof on the station receiving

interference. In re:NEW(FM), Running Springs, CA Calvary Chapel of Twin Falls, Inc. ("Calvary Chapel") "Translators must meet the requirements of Section 74.1203 rules, which state that if a translator causes interference to another FM full-service station and the FCC receives complaints from legitimate listeners *independent of the complaining station.*" (emphasis added)

WISG fails to provide any documented interference from a specific location or a complaint. WISG provides no Arbitron Data for Henry County Indiana for specific zip codes which show actual listeners. The W230AR service area is well outside of WISG's 60dbu protected contour. Staff has allowed placement of translators within the 60dbu of co-channel stations. Past Staff Decisions place any interference issues within the licensed 60dbu contours and the W230AR signal is outside of this scope.

No interference complaint has been filed by any listener of WISG "independent of WISG". Under the burden of proof an informal email is not a complaint. The email is not a complaint apart from WISG who included it in a Petition they orchestrated. The letter was not within WISG's Public Inspection File. If it were an actual listener the letter should have been within the WISG Public Inspection File. The Commission letter was sent to the complainant Mark Lipp, not a listener.

### **Movement of W230AR**

W230AR has filed to modify facilities within the Rulemaking for WISG and WPFR. This matter is pending and W230AR as a secondary station is allowed to participate in a Rulemaking Proceeding. With WISG's apparent unauthorized modifications ICRC requests relief which is in the Public Interest.

As a result of the apparent unauthorized upgrade a move within 3 channels or an IF movement would not be sufficient from an engineering perspective to escape the interference scenario created by the apparent unauthorized upgrade of WISG to Class B facilities.

W230AR would request Staff respond to ICRC's request herein to locate to a non adjacent channel to escape interference from the high power WISG facilities. Within this proceeding W230AR requests a waiver to move to Channel 206A. Using the reference coordinates this location is available with a site restriction. Channel 218 is also available for use with a site restriction. Either channel is acceptable and ICRC would facilitate changes quickly to escape the interference from WISG.

### **Conclusion**

WISG has apparently upgraded facilities beyond its licensed parameters based on signal reports and reception of W230AR New Castle and WPFR Clinton. (both Indiana). This apparent upgrade by WISG has resolved any possible reception difficulty related to W230AR and is creating harmful interference to licensed stations. Currently interference from WISG to WPFR is evident within WPFR's protected 60dbu contour.

W230AR has had few informal contacts that even mention WISG and these are defined to the best of our knowledge. WISG has refused access to its Public Inspection File. It is impeding the progress of our attempts to resolve issues and has violated Public File Commission Rules.

Because of interference from the apparently upgraded WISG signal W230AR wishes to request a waiver to relocate as so noted to Channel 206A or Channel 218A. We are requesting an expedited response to our request to move facilities tied to the interference issue presented and our request for assistance because of the modified WISG facilities. As WISG is operating at variance from parameters which causes interference to our station operating within licensed parameters this resolution is warranted and within the Public Interest. Movement within the 3 channel or IF one step movement would not escape interference from the WISG facilities.

Enclosures : Contour Maps of WPFR/WISG/W230AR

Respectfully Submitted

Jennifer Cox-Hersley

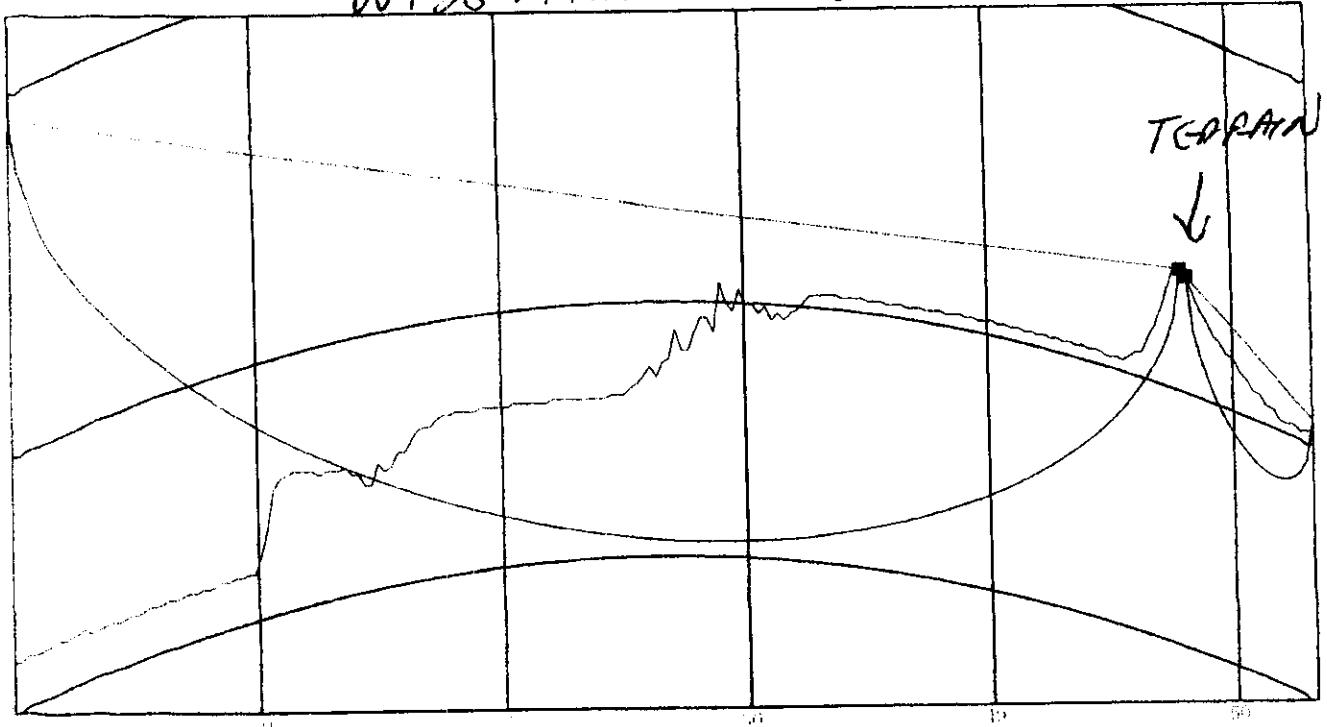
15 Wood Street

Greenfield, Indiana 46140

317 467-1064

Amplitude Path Profile

WISG MAIN TO W 230 ARL



375 W ERP

TX

WISG MAIN  
1000 W  
1000 W  
1000 W

RX

W 230 ARL  
1000 W  
1000 W  
1000 W

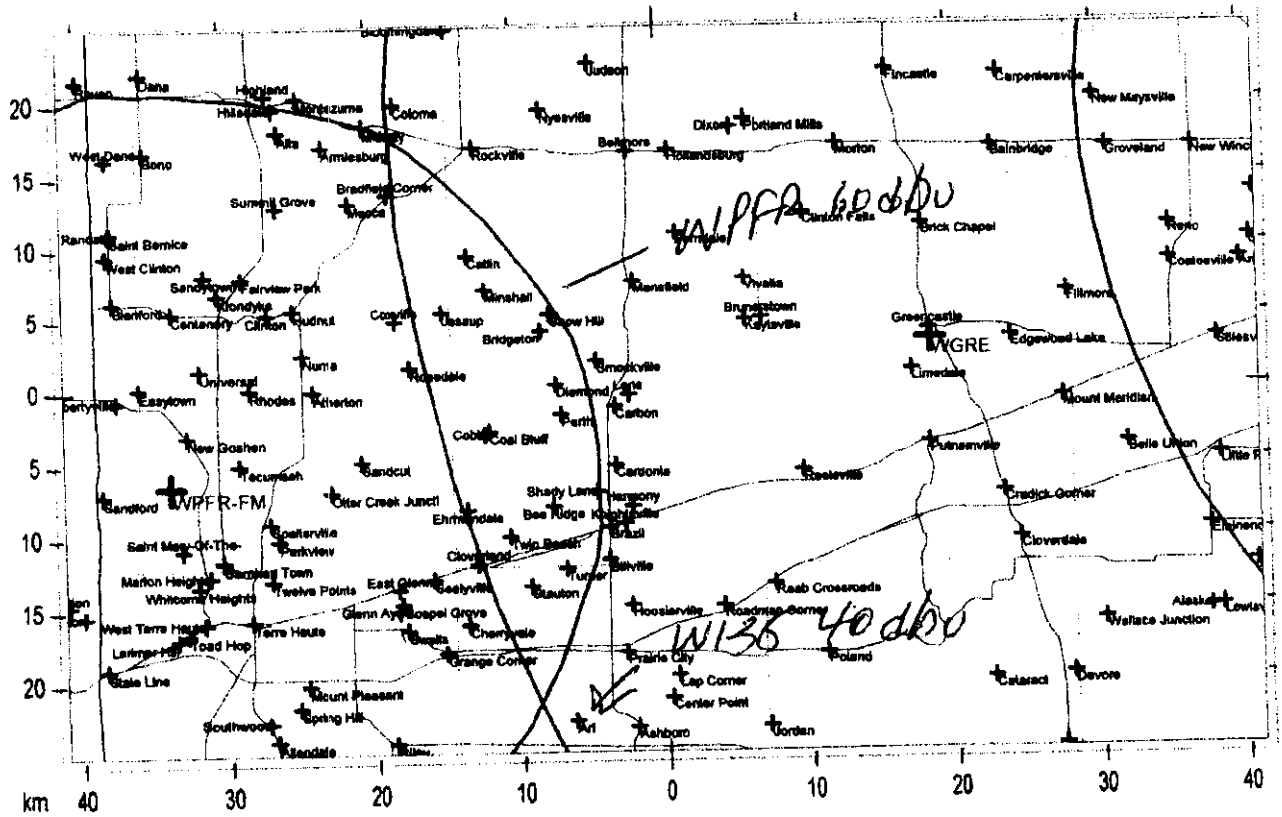
Distance

0  
10  
20  
30  
40  
50  
60

Losses

Free Space Loss  
Atmospheric Loss  
Terrain Loss  
Antenna Loss

## Map Header



## Map Footer

State Borders      Highways      Lat/Lon Grid

Tuesday, September 12, 2006

The map displays the proposed New York State Thruway route, which is a major highway project connecting Albany in the north to Buffalo in the south. The route is shown as a solid line, with various branches and interchanges indicated. Major towns and cities are marked with dots and labeled, including Albany, Newburgh, Poughkeepsie, Kingston, Catskill, Binghamton, and Buffalo. The map also shows the location of the New York State Thruway Authority (NYSTA) and the New York State Thruway Corporation (NYSTC). The map includes a scale bar at the bottom left, indicating distances in kilometers (km) and miles (mi). The map is oriented with North at the top.

State Borders      Highways      Lat/Lon Grid

Map Scale: 1:500000 1 cm = 5.00 km V/H Size: 49.97 x 82.09 km

